

REMARKS

Applicant appreciates the time taken by Examiner Oyeibisi to review Applicant's present application. This application has been carefully reviewed in light of the Official Action mailed September 7, 2007. This Reply encompasses a bona fide attempt to overcome the rejections raised by Examiner Oyeibisi and presents amendments as well as reasons why Applicant believes that the claimed invention, as amended, is novel and unobvious over the applied prior art. Accordingly, Applicant respectfully requests reconsideration and favorable action in this case.

Claim Status

Claims 1-36 were pending. Claims 1-3, 8, 10-14, 18-19, 21-24, 28, and 30-32 are amended herein. Support for the amendments to claims 1-3, 8, 10-14, 18-19, 21-24, 28, and 30-32 can at least be found at paragraphs 0020, 0021, 0024, and 0027. No claims are newly added or cancelled herein. Thus, Claims 1-36 are pending.

Interview Summary

Pursuant to Applicant Initiated Interview Request submitted November 1, 2007, a telephonic interview was conducted November 5, 2007 between Examiner Ojo Oyeibisi, Attorney Katharina Schuster, and Agent Kevin Gust. Examiner Oyeibisi orally agreed that Claim 1 as presented herein overcomes the cited prior art. Applicant appreciates the time and effort taken by Examiner Oyeibisi to review Applicant's present application and discuss the pending claims and the cited prior art.

Rejections under 35 U.S.C. § 103

Claims 1-36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,974,396 ("Anderson") in view of "*net.Genesis Announces Most Valuable Customer™ Segmentation Package*," from PR Newswire ("net.Genesis"). Arguments submitted in the Previous Reply dated June 22, 2007 and December 21, 2006 are expressly incorporated herein by reference. The rejection is respectfully traversed. Independent claims 8, 22 and 31, recite limitations similar to those recited in claim 1. Accordingly, traversal to the rejection will be collectively discussed herein with respect to claim 1.

As amended, claim 1 recites a market analysis system comprising:

- a computer processor;
- a computer readable storage medium;
- a database stored on the computer readable storage medium comprising aggregate transaction data; and
- a software program stored on the computer readable storage medium executable by the processor to:
  - receive a set of transaction data from an electronic exchange where market transactions are conducted electronically via the Internet;
  - store the set of transaction data in the database;
  - categorize products and services from the aggregate transaction data into standard pricing groups defined by one or more attributes; and
  - apply a statistical analysis to compare the products or services in a standard pricing group.

In response to the Examiner's positions set forth on page 10 of the Office Action, Applicant respectfully submits that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F. 2d 981, USPQ 580 (CCPA 1974). See also MPEP 2143.03. Neither Anderson nor net.Genesis teach or suggest a system operable to "categorize products and services from the aggregate transaction data into standard pricing groups defined by one or more attributes and apply a statistical analysis to compare the products or services in the standard pricing group" as recited in claim 1. Anderson explicitly teaches clustering products in order to analyze customer habits. For example, a particular brand of cat food would be included in a generic cluster entitled pet foods. See, Col. 10, lines 24-26. As such, Anderson is not concerned with the details of any particular cat food product or the comparison of any two brands of cat food, but is instead concerned with data showing that a customer does buy pet food. Similarly, net.Genesis describes analyzing data on groups of customers to determine how top customers behave differently from average or below-average customers, how top customers find the web site, and which promotional activities are attracting the best potential customers. See, net.Genesis, page 2, paragraph 2. Thus, Anderson and net.Genesis are both concerned with analyzing customer data such as spending habits and fail to teach or suggest analyzing transaction data with respect to standard pricing groups of products/services.

In contrast, in embodiments as claimed, products or services may be categorized into a product or service group (i.e., a standard pricing group) and a statistical analysis may be selectively performed to derive results with respect to the standard pricing group. As an example, a statistical analysis of unsuccessful transactions may determine that the product or service was overpriced. Alternatively, the statistical analysis may reveal that there were other factors important to the customer, such as a particular supplier location being closer to customers, extended warranties with a product, product terms, etc. See, page 13, para. [0032].

In view of the foregoing, Applicant respectfully submits the cited references, alone or in combination, fail to teach or suggest the limitations of amended claim 1. For similar reasons, claims 8, 22 and 31 are submitted to be patentable over Anderson and net.Genesis under 35 U.S.C. § 103. If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Thus, dependent claims 2-7, 9-21, 23-30, and 32-36 are submitted to be also patentable over Anderson and net.Genesis under 35 U.S.C. § 103. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

Applicant has now made an earnest attempt to place this case in condition for allowance. Other than as explicitly set forth above, this reply does not include any acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 1-36. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3183 of Sprinkle IP Law Group.

Respectfully submitted,

**Sprinkle IP Law Group**  
Attorneys for Applicant



Katharina Wang Schuster  
Reg. No. 50,000

Date: November 6, 2007

1301 W. 25<sup>th</sup> Street, Suite 408  
Austin, TX 78705  
Tel. (512) 637-9220  
Fax. (512) 371-9088